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Attorneys for Defendant, THE KROGER CO.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTINE WHALEN, *et al.*,
Plaintiffs,

v.

THE KROGER CO., ALBERTSONS
COMPANIES, INC., and CERBERUS
CAPITAL MANAGEMENT, L.P.,

Defendants.

Case No. 3:23-cv-00459-VC

**STIPULATION AND [PROPOSED]
ORDER SETTING CASE DEADLINES**

Hon. Vince Chhabria

1 Pursuant to Civil Local Rules 6-2 and 7-12, Plaintiffs Christine Whalen, et al., (“Plaintiffs”) and Defendants The Kroger Co., Albertsons Companies, Inc., and Cerberus Capital Management, L.P. (“Defendants”) hereby stipulate through their respective counsel of record to extend the briefing dates for Defendants’ anticipated Motions to Dismiss the Amended Complaint (ECF No. 93).

2 WHEREAS, Plaintiffs filed their First Amended Complaint Charging The Kroger Co.’s Acquisition of Albertsons as a Violation of Section 7 of the Clayton Antitrust Act, 15 U.S.C. § 18 (ECF No. 93) (“First Amended Complaint”) on October 2, 2023,

3 WHEREAS, Defendants’ Motions to Dismiss the First Amended Complaint would be due on October 16, 2023,

4 WHEREAS, the Court has scheduled a Status Conference for October 20, 2023 (ECF No. 92) (“Status Conference”),

5 WHEREAS, Defendants wish to have the benefit of any guidance the Court provides at the Status Conference before any Motions to Dismiss and related briefings are filed,

6 WHEREAS, extending the briefing schedule for the Motions to Dismiss would further the efficient disposition of this case by enabling the parties to address any issues raised by the Court at the Status Conference,

7 WHEREAS, Plaintiffs do not object to this extension,

8 NOW THEREFORE, THE PARTIES BY COUNSEL HEREBY STIPULATE, subject to the Court’s approval, to the following revision of the briefing schedule: (1) Defendants’ Motions to Dismiss the First Amended Complaint are due on October 26, 2023, (2) Plaintiffs’ Opposition to Defendants’ Motions to Dismiss the First Amended Complaint are due on November 9, 2023, (3) Defendants’ Replies in Support of Motions to Dismiss are due on November 16, 2023. The parties reserve the right to revisit this schedule in light of input received from the Court at the Status Conference.

9 **IT IS SO STIPULATED.**

Dated: October 12, 2023

Respectfully submitted,

ARNOLD & PORTER KAYE SCHOLER LLP

By: /s/ Daniel B. Asimow

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SIGNATURE ATTESTATION

I, Daniel B. Asimow, am the ECF user whose user ID and password are being utilized to electronically file this STIPULATION AND [PROPOSED] ORDER SETTING CASE DEADLINES. Pursuant to Local Rule 5-1(i)(3), I hereby attest that the other signatories have concurred in this filing.

Dated: October 12, 2023

ARNOLD & PORTER KAYE SCHOLER LLP

By: /s/ Daniel B. Asimow
DANIEL B. ASIMOW

Attorney for Defendant
THE KROGER CO.

ORDER

Based on the stipulation of the parties, and good cause appearing therefore, IT IS HEREBY ORDERED that the Stipulation is approved.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

THE HONORABLE VINCE CHHABRIA
United States District Judge